

OFFICE OF THE ATTORNEY GENERAL



94-00092

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ATTORNEY GENERAL
STATE OF ALABAMA

FEB 24 1994

ALABAMA STATE HOUSE
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AREA (205) 242-7300

Honorable Sherrie R. Phillips
Probate Judge, Covington County
P.O. Drawer 789
Andalusia, AL 36420

Poll Lists - Probate Judges -
Funds

After proper certification,
the Covington County Probate
Judge is entitled to receive
the \$.05 per name provided
under Code of Alabama 1975,
§ 17-4-138, for the prepara-
tion of the voter list.

Dear Judge Phillips:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

Is the Covington County Probate Judge
entitled to the \$.05 per name for prepar-
ation of the poll list even though the
probate judge is not compensated on the
fee system?

FACTS AND ANALYSIS

Code of Alabama 1975, § 17-4-138, provides in perti-
nent part:

"The judge of probate may employ such assistants and clerical help as may be necessary to complete and properly prepare the list of qualified electors which the judge of probate is required to furnish the election inspectors. The judge of probate shall receive or such assistants shall be paid out of the county treasury by warrants drawn by the county commission on certificate of the probate judge, accompanied by the certificates of the person being paid, showing the amount is due under the provisions of this chapter, but the entire amount spent for the preparation of such lists shall not exceed a sum equal to the amount obtained by multiplying the number of names on said list by \$.05 for the preparation of such list."

This office has previously held that the right to receive the \$.05 per name is granted to all probate judges in the state without regard to whether they are compensated on the fee system or a salary system. Opinions to Honorable Freddie Armstead, President, Marengo County Commission, dated November 10, 1992, A.G. No. 93-00057, and to Honorable John L. Moore, Judge of Probate, Mobile County, dated January 15, 1981, A.G. No. 81-00176. The right of all probate judges in the state to receive these funds was recognized by the Alabama Supreme Court in Opinion of the Justices, No. 285, 407 So.2d 122 (Ala. 1981).

This office has also held that the probate judge must certify to the county commission that the probate judge is the proper person to receive such payment. Opinion to Honorable Freddie Armstead, President, Marengo County Commission, dated November 10, 1992, A.G. No. 93-00057.

CONCLUSION

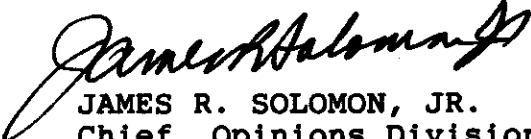
Accordingly, after proper certification, the Covington County Probate Judge is entitled to receive the \$.05 per name provided under Code of Alabama 1975, § 17-4-138, for the preparation of the voter list.

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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

JE/BFS

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